

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

RODNEY P. MAZZULLA,

Defendant.

4:17-CR-3089

ORDER

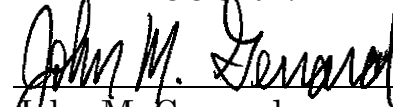
The defendant has moved the Court, pursuant to Fed. R. Crim. P. 41(g), for the return of property seized from his residence. [Filing 210](#). Rule 41(g) authorizes a person whose property is seized by the government to petition the district court for its return. If the movant establishes lawful entitlement to the property, the government must then establish a legitimate reason to retain the property, which may include the government's need to retain the property as evidence. *Jackson v. United States*, 526 F.3d 394, 396–97 (8th Cir. 2008).

In this case, the defendant is also collaterally attacking the judgment against him pursuant to [28 U.S.C. § 2255](#). See [filing 232](#). So, the government is justified in retaining the property at least during the pendency of postconviction proceedings. See *United States v. Mendez*, 860 F.3d 1147, 1150 (8th Cir. 2017). Accordingly,

IT IS ORDERED that the defendant's motion for return of property ([filing 210](#)) is denied.

Dated this 3rd day of March, 2021.

BY THE COURT:



John M. Gerrard
Chief United States District Judge